

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

LUIS MAY

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -3557

Decision No. CU 4918

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by LUIS MAY for \$19,000.00 based upon the asserted ownership and loss of certain real property in Cuba. Claimant has been a national of the United States since his naturalization on November 16, 1956.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated,

intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant describes his loss as follows:

2-family house, Luz Caballero #56, Manzanillo, Oriente	\$10,000.00
1-family house, Marchan #46	2,500.00
1-family house, Marchan #48	2,500.00
Improvement to house at Luz Caballero	2,000.00
Increased value of improved realty	<u>2,000.00</u>
	\$19,000.00

Based upon the entire record, including a report from abroad, the Commission finds that claimant owned the two-family house at Luz Caballero #56.

On December 6, 1961, the Cuban Government published its Law 989 which effected confiscation of all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. Claimant states the claim arose about May, 1963.

The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on May 15, 1963 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The record includes, in support of the claimed values, the aforementioned report from abroad covering the property at Luz Caballero #56 which indicates that this property comprised about 86 square meters, was valued

at \$2,500.00 and was encumbered by a mortgage of \$2,100.00. Claimant describes this property as a brick two-family house, having 7 rooms in each apartment. He states that when he purchased the property in 1952 or 1953 it was a one-family house and that after the purchase he constructed the second story or top apartment.

On the basis of the record, the Commission finds that on the date of loss this improved realty had a value of \$6,500.00 and that it was subject to a mortgage of \$2,100.00, leaving an equity of \$4,400.00.

With regard to the remaining portion of this claim based on the loss of the two houses at Marchan #46 and Marchan #48, claimant has submitted no documents or other evidence to support this portion of the claim or the amount thereof. The Commission is therefore constrained to hold that claimant has not established this portion of his claim, and therefore it is denied for failure to meet the burden of proof.

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$4,400.00 within the meaning of Title V of the Act, as the result of the taking of his property by the Government of Cuba.


The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.


CERTIFICATION OF LOSS


The Commission certifies that LUIS MAY suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Thousand Four Hundred Dollars (\$4,400.00) with interest thereon at 6% per annum from May 15, 1963 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

JUN 3 1970

  
Lyda S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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